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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/990,770

11/21/2001

Melody Vos

5253-04200

1825

29855

7590

09/01/2006

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,  
L.L.P.

20333 SH 249

SUITE 600

HOUSTON, TX 77070

EXAMINER

ABEL JALIL, NEVEEN

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/990,770

Applicant(s)

VOS ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-19, 21-34 and 36-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-19, 21-34, 36-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Remarks

1. The Amendment filed on August 21, 2006 has been received and entered. Claims 5, 20, and 35 have been cancelled. Therefore, claims 1-4, 6-19, 21-34, and 36-45 and are now pending.
2. Applicant's Amendment has overcome the previous claim objections, and rejections under 35 USC 101.

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1, 16, and 31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. That claims do not recite a practical application by producing a physical transformation or producing a useful, concrete, and tangible result. To perform a physical transformation, the claimed invention must transform an article of physical object into a different state or thing. Transformation of data is not a physical transformation. A useful, concrete, and tangible result must be either specifically recited in the claim or flow inherently therefrom. To be useful the claimed invention must establish a specific, substantial, and credible utility. To be concrete the claimed invention must be able to produce reproducible results. To be tangible the claimed invention must produce a practical application or real world result. In this case the claims fail to produce a tangible result because the outcome of "determining" is never stored or presented.

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 4, 6-16, 19, 21-31, and 36-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Chaudhuri et al. (U.S. Patent No. 6,223,171 B1).

As to claims 1, 16, and 31, Chaudhuri et al. discloses

associating management criteria the database to manage database objects (See column 7, lines 45-54);

determining actions to be performed on one or more database to modify the one or more database objects based on the management criteria (See column 8, lines 55-61);

modifying the one or more database objects by performing the actions on the database objects (See column 8, lines 33-46);

monitoring results of modifying the database objects (See column 8, lines 55-61);

reconfiguring the management criteria associated with the database based on the results of modifying the database objects (See column 11, lines 31-41);

collection statistics relating to the operation of the database (See column 11, lines 31-41);

and

determining characteristics of the database objects (See column 11, lines 55-65).

As to claims 4, 19, and 34, Chaudhuri et al. discloses

confirming the performing the actions on the database objects (See column 12, lines 3-15, wherein “confirming” reads on “prompt”).

As to claims 6, 21, and 36, Chaudhuri et al. discloses

wherein the determining the characteristics of the database objects comprises automatically determining the characteristics of the database objects (See column 9, lines 50-64, and see column 11, lines 55-65, also see Figure 5, step 906).

As to claims 7, 22, and 37, Chaudhuri et al. discloses

wherein the determining the actions to be performed on the database objects comprises determining the actions to be performed on the database objects based on the characteristics of the database objects (See column 10, lines 46-67).

As to claims 8, 23, and 38, Chaudhuri et al. discloses

wherein the determining the actions to be performed on the database objects based on the characteristics of the database objects comprises automatically determining the actions to be performed on the database objects based on the characteristics of the database objects (See column 6, lines 40-54).

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As to claims 9, 24, and 39, Chaudhuri et al. discloses

wherein the statistics comprise object-level statistics (See Figures 6, and 7, both show object-level statistics).

As to claims 10, 25, and 40, Chaudhuri et al. discloses

wherein the statistics comprise activity-level statistics (See Figure 6, shows s activity level statistics).

As to claims 11, 26, and 41, Chaudhuri et al. discloses

wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using the collected statistics (See column 16, lines 46-64).

As to claims 12, 27, and 42, Chaudhuri et al. discloses

wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using one or more policies in the management criteria (See column 16, lines 46-64).

As to claims 13, 28, and 43, Chaudhuri et al. discloses

wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using one or more definitions in the management criteria (See column 8, lines 55-61).

As to claims 14, 29, and 44, Chaudhuri et al. discloses

customizing the one or more definitions in the management criteria (See column 8, lines 21-31, wherein “customizing” reads on “user definition”).

As to claims 15, 30, and 45, Chaudhuri et al. discloses

customizing the one or more policies in the management criteria (See column 8, lines 21-31, wherein “customizing” reads on “user definition”).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 3, 17, 18, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaudhuri et al. (U.S. Patent No. 6,223,171 B1) in view of Fiszman et al. (U.S. Patent No. 6,115,646).

As to claims 2, 17, and 32, Chaudhuri et al. does not explicitly teach automatically determining a schedule to perform the actions on the database objects,  
wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule.

Chaudhuri et al. teaches execution of workload plan by building an index at a scheduled time (See Chaudhuri et al. column 24, lines 1-10).

Fiszman et al. teaches automatically determining a schedule to perform the actions on the database objects, wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule (See Fiszman et al. column 9, lines 20-26, also see Fiszman et al. column 11, lines 35-51, and see Fiszman et al. column 19, lines 11-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement automatic scheduling because it allows for better and more efficient database management (See Fiszman et al. column 3, lines 31-49).

As to claims 3, 18, and 33, Chaudhuri et al. as modified discloses

wherein the performing the actions on the database objects based on the schedule comprises automatically performing the actions on the database objects based on the schedule (See Fiszman et al. column 9, lines 20-26, also see Fiszman et al. column 11, lines 35-51, and see Fiszman et al. column 19, lines 11-19).

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-4, 6-19, 21-34, and 36-45 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***



10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Adya et al. (U.S. Patent No. 6,266,658 B1) teaches index tuner for a given workload and recommending final configuration.

Akmal B. Chaudhri. Theory and Practice of Object Systems. Vol. 5, Issue 4. Pages 263-279. InterScience, Wiley. Pub. 6/6/2000.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'N. Abel-Jalil', with a large, sweeping flourish extending to the right.

Neveen Abel-Jalil

August 30, 2006